

55. (new) The food of Claim 54, wherein the partially purified cocoa extract is a xanthine-alkaloid free cocoa extract.

56. (new) A food comprising, as a food additive, epicatechin.

D<sup>2</sup>  
cont  
57. (new) A food comprising, as a food additive, a synthetic cocoa polyphenol which is an oligomer of epicatechin.

58. (new) A food comprising, as a food additive, a mixture of epicatechin and oligomers thereof.

#### REMARKS

Support for food compositions comprising, as a food additive, isolated cocoa polyphenols or synthetic procyanidins can be found at page 41, lines 17-22, where "cocoa extracts containing containing procyanidins" are suggested for use "as an antioxidant and/or food additive". See also the discussion at page 3, line 35 to page 4, line 12 regarding the cocoa extracts or synthetic cocoa polyphenols comprising cocoa procyanidins. Support for isolation of the cocoa procyanidins can be found in Example 2 "Procyanidin Extraction Procedures" and Example 3 "Partial Purification of Cocoa Procyanidins". Support for synthetic procyanidins can be found in Example 11 as well as in the discussion of synthetic cocoa polyphenols or procyanidins at page 14, lines 17-20.

Support for the cocoa extract containing "a mixture of cocoa procyanidins", for the cocoa procyanidins being "selected from the group consisting of monomers and oligomers of catechin and epicatechin" and "for the oligomers including "dimers through dodecamers" can be found in Table 3 where the monomers and oligomers up to the dodecamers were identified, as well as Figures 2A and 2B where epicatechin, catechin, and various procyanidin oligomers are shown.

Support for isolation of the cocoa procyanidins as a cocoa extract can be found in Example 2 "Procyanidin Extraction Procedure".

Support for the fractionation of the cocoa extract may be found in Example 3 "Partial Purification of Cocoa Procyanidins". Specifically, see the reported fractions in the table on page 20. Support for "pooled" fractions can be found in Figs. 11A to 11H, 12A to 12H, and 13A to 13H, where fractions A, B, C, D, and E were tested as well as pooled fractions A+E, B+E, and C+E.

Support for solvent extraction of defatted cocoa beans can be found in Example 2 "Procyanidin Extraction Procedure".

Support for the use of "unfermented cocoa beans" can be found in Example 2. Support for the use of "partially fermented cocoa beans" and "fermented cocoa beans" can be found in Fig. 15L where the cells were "...treated with crude polyphenol extracts obtained from fermented cocoa beans and dried cocoa beans (stages throughout fermentation and sun drying;...".

Support for the solvents being "acetone and water" or "methanol and water", or "ethyl acetate" may be found at page 16, lines 17-20 and lines 25-26.

Support for "purification by gel permeation chromatography and/or high pressure liquid chromatography" can be found in Example 3.

Support for "a xanthine-alkaloid free extract can be found in Example 3, Part A at page 18, lines 5-10.

Telephone Conference

This will make of record the telephone conference of May 15, 2002 in which the non-entry of the Preliminary Amendment of November 21, 2000 adding food claims 81-99 was discussed as well as the Restriction Requirement of April 30, 2002 for original claims 1-44 were discussed. Examiner Tate helpfully suggested electing food Claims 27-43, then canceling these claims, and adding new food claims comparable to the non-entered Claims 81-99.

#### Filing Receipt

Please note the filing receipt includes the corrected title included in the non-entered Preliminary Amendment. It also includes the status of the related applications except for the patent number and issue date assigned to Ser. No. 09/172,873 filed 10/15/98. It lists a total of 26 claims, 5 of which are dependent.

#### Patent Term Extension

It is noted that this application may be entitled to patent term extension. A first Office Action should have been issued by January 21, 2002 (14 months after the November 21, 2000 filing date). The first Office Action is April 30, 2002.

Closing

Entry of this Amendment and consideration of the claims is respectfully requested. No new matter is presented.

Respectfully submitted,

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